

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

<b>STEPHANIE MERCIER,</b>	)	
<b>AUDRICIA BROOKS,</b>	)	
<b>DEBORAH PLAGEMAN,</b>	)	
<b>JENNIFER ALLRED,</b>	)	
<b>MICHELE GAVIN</b>	)	<b>Case No. 12-920 C</b>
<b>STEPHEN DOYLE, on behalf of</b>	)	
<b>themselves and all others similarly</b>	)	<b>Judge Elaine D. Kaplan</b>
<b>situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>THE UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Defendant.</b>	)	

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**PARTIES' PROPOSALS FOR PRETRIAL PROCEDURES AND TRIAL**

Pursuant to this court's Order dated June 4, 2020 (ECF#195), the parties respectfully submit their respective proposals for conclusion of this case, pretrial procedures, and trial date. The parties' have distinct views of application of Appendix A. For that reason each sets forth its proposal separately.

**I. Plaintiffs' Proposal:**

The court has ordered the parties "to file a joint proposed pre-trial schedule that complies with Appendix A, §VI (Case Management Procedure) of the Rules of the Court of Federal Claims." RCFC, Appendix A, §VI sets forth a specific process and the order of events, with specific times between each required event. Plaintiffs' proposal comports directly with the requirements of §VI, Para. 13-18 as set forth. Plaintiffs propose the following pretrial schedule:

1. **December 1, 2020** – Para. 13(a)(b) and (c) "Meeting of Counsel."

2. **December 8, 2020** – Para. 13(d) “Certification” of counsel in compliance with Para. 13(d).
3. **December 15, 2020** – Plaintiffs Para. 14(d) “Proposed Findings of Fact and Conclusions of Law.”<sup>1</sup>
4. **December 15, 2020** – Para. 15(a) and (b) (Witness List), 16 (Exhibit List). Plaintiffs’ filing of their Exhibits and Witness List concurrent with the Proposed FOF/COL, along with motions for admission of deposition testimony. Para. 15(b).
5. **January 12, 2021** – Defendant’s filing of its Proposed FOF/COL, Witness List and Exhibit List, and motions for admission of deposition testimony. (28 days following Plaintiffs’ filing, consistent with Para. 14(b).)
6. **January 29, 2021** – Para.17 - Stipulations of Fact filed by the parties.
7. **February 1, 2021** – Final Pretrial Conference with the court.
8. **February 8, 2021** – Trial. Plaintiffs anticipate approximately 9 trial days to the court.

## **II. The Government’s Proposal:**

**December 15, 2020:** Plaintiffs file Memorandum of Contentions of Fact and Law, Witness List, Exhibit Lists, and produce Exhibits to Defendants (not Court). Counsel may also propose as Joint Exhibits any core documents that both parties agree should be in evidence

**January 15, 2021:** Defendants file Memorandum of Contentions of Fact and Law, Witness List, Exhibit List, and produce Exhibits to Plaintiffs (not Court)

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<sup>1</sup> Plaintiffs request the court “...in lieu of the Memoranda of Contentions of Fact and Law, order the filing of Proposed Findings of Fact and Conclusions of Law, including, at the judge’s direction, annotations to the exhibits or witnesses on which the party will rely to prove the findings.” Plaintiffs specifically request the Proposed FOF/COL be substituted in place of the Memorandum of Contentions of Fact and Law under Para. 14(a). The Proposed FOF/COL would include “a statement of the issues of fact and law to be resolved by the court...set forth in sufficient detail to enable the court to resolve the case in its entirety by addressing each of the issues listed” as contemplated by Para. 14(a)(2). Objections to the opposing party’s witnesses or exhibits (as disclosed on December 1 in the Meeting of Counsel) would be addressed in a separate motion filed with the Proposed FOF/COL, as contemplated by Para. 14(a)(3).

**Week of January 18-22:** Counsel Meet and Confer regarding stipulations of uncontested material facts and objections, if any, to exhibits

**January 25, 2021: Parties file certification that they have met and accomplished all of the matters required by paragraph 13 of Appendix A.**

**January 29, 2021:** Parties file joint stipulation of uncontested material facts and objections (if any) to exhibits.

All pretrial or dispositive motions shall be filed sufficiently in advance of trial to allow for a response brief and reply thereto, and full consideration by the Court. The pendency of pretrial or dispositive motions will not under any circumstances serve to delay the start of trial.

**February 1, 2021:** Final Pre-Trial Conference

**February 8, 2021:** Trial

Respectfully Submitted,

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June 11, 2020

#### **CERTIFICATE OF SERVICE**

I hereby certify that on June 11, 2020, I electronically filed the foregoing with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to counsel for all parties.

s/David M. Cook  
David M. Cook